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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,104	11/19/2003	Jeffrey D. Winkler	BENST-63201	9893
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FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER VEZERIS, JAMES A	
			ART UNIT 3609	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,104

Applicant(s)

WINKLER ET AL.

Examiner

James A. Vezeris

Art Unit

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

Claim Rejections- 35 U.S.C. 112 1st Paragraph

1. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In lines 4 and 5 of claim 1 the applicant uses the phrase "selecting from a set of industry standard rules for distinguishing investment asset classes" but does not make it clear what is being selected. Examiner will review the claim based on the assumption that the applicant meant to say, "selecting a set of industry standard rules for categorizing asset classes."
2. The term "real time" in claim 4 and others is a relative term, which renders the claim indefinite. The term "real time" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. All systems have some delay built in and it is not clear what amount of time delay would constitute an action as being in real time or not in real time.
3. Claim 5 recites the limitation "the determination is made in real time" and "the user is notified in real time of the determination" in lines 12-13 and 14-15 respectively. There is insufficient antecedent basis for this limitation in the claim. Both claims 5 and 1 discuss a determination and it is unclear which one the two limitations are referring to. Examiner notes that the determination in claim 5 will be used during examination.

Art Unit: 3609

Claim Rejections- 35 U.S.C. 103(a)

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

PG-Pub 2002/0174045 to Arena et al (Hereinafter "Arena") in view of US

PG-Pub 2002/0013711 to Ahuja et al. (Hereinafter "Ahuja").

Regarding Claim 1:

Arena teaches a method of controlling the allocation of investment funds of a user, including the steps of:

Selecting from a set of industry standard rules for distinguishing investment asset classes. (See Arena paragraph 37 lines 1-8)

Selecting, from the selected set of industry standard rules, different asset classes in which the user is to have investments. (See Arena paragraph 37 lines 1-8)

Selecting the investment limits in which the user is to have investments in the different asset classes selected by the user. (See Arena figure 4, paragraph 71)

Arena fails to determine when the user is to be notified that the user's investment in an individual one of the different asset classes is outside of the investment limits established by the user for the individual ones of the different asset classes. However, Ahuja does teach the determination. (See Ahuja figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

Art Unit: 3609

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 2:

Arena fails to further teach a method, including the step of:

Selecting the mode by which the user is to be notified that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes. Ahuja does teach this step. (See Ahuja figs 1, 6(a), 6(b), 10, Paragraph 44)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 3:

Arena fails to further teach a method wherein:

After the user receives notification that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes, the user determines what changes, if any, the user wishes to make in the rules by which the user's investment funds are allocated. However, Ahuja does teach this method. (See Ahuja figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Art Unit: 3609

Regarding Claim 4:

Arena fails to further teach a method wherein:

The determination is made in real time at pre-selected intervals and wherein the user is notified in real time of the determination when the determination is made.

However, Ahuja does teach this method. (See Ahuja Paragraph 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 5:

Arena fails to further teach a method wherein:

The user selects the mode by which the user is to be notified that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes. However, Ahuja does teach this method. (See Ahuja figs 1, 6(a), 6(b), 10 Paragraph 44)

After the user receives notification that the user's investment in individual ones of the different asset classes is outside of the limits established by the user for these asset classes, the user determines what changes, if any, the user wishes to make in the rules by which his investment funds are allocated. However, Ahuja does teach this method. (See Ahuja Paragraph 51 and 54)

The determination is made in real time at pre-selected intervals. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

The user is notified in real time of the determination when the determination is made. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44, 51, and 54)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 6:

Ajuha in view of Arena teaches a method of controlling the allocation of investment funds for a user acting on behalf of a participant, including the steps of:

Selecting, from a set of industry standard rules, investment asset classes to govern the investment of the user for the participant. (See Arena paragraph 37 lines 1-8 Ajuha Paragraph 10)

Selecting the investment limits in which the user is to provide investments in different one of the selected asset classes for the participant. (See Arena figure 4, Ajuha Paragraph 10)

Determining when the user is to be notified that the investments for the user in the individual ones of the different asset classes are outside of the investment limits established by the user in the individual ones of the asset classes. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 10, 44, and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 7:

Arena fails to further teach a method wherein:

The user represents himself or herself. However, Ahuja does teach this method.

(See Ajuha Paragraph 9. 10)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 8:

Arena fails to further teach a method wherein:

The user represents an individual other than the user. However, Ahuja does teach this method. (See Ajuha Paragraph 10)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 9:

Arena fails to further teach a method wherein:

The user represents a group or class of individuals. However, Ahuja does teach this method. (See Ajuha Paragraph 10)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 10:

Arena fails to further teach a method wherein:

When the investment in an individual one of the asset classes selected by the user is in excess of limits established by the asset class, dealing with the excess in accordance with instructions from the user. (See Ajuha Paragraphs 10, 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 11:

Arena fails to further teach a method wherein:

When the investment in an individual one of the asset classes selected by the user is in excess of limits established by the user for the asset class, dealing with the excess in accordance with one of the following relationships: (a) acknowledging the situation but taking no remedial action, (b) changing the diversification limits in the individual one of the asset classes or (c) changing the asset allocation. However, Ahuja does teach this method. (See Ahuja Paragraph 10, 51 and 54)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 12:

Arena fails to further teach a method wherein:

The mode of communicating to the user is changed when the investment in an individual one of the asset classes is outside of the limit established by the user for the asset class. However, Ahuja does teach this method. (See Ahuja Paragraph 10, 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 13:

Arena fails to further teach a method wherein:

The user represents (a) himself or herself, (b) an individual other than the user or (c) a group or class of individuals and wherein when the investment in an individual one of the asset classes selected by the user is in excess of the limit established by the user for the asset class, dealing with the excess in accordance with instructions from the user. However, Ahuja does teach this method. (See Ajuha Paragraph 10 and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 14:

Arena fails to further teach a method wherein:

When the investment in an individual one of the asset classes selected by the user is in excess of the limit established by the user for the asset class, dealing with the

Art Unit: 3609

excess in accordance with one of the following relationships: (a) acknowledging the situation but taking no remedial action, (b) changing the diversification limits in the individual one of the asset classes or (c) changing the asset allocation and wherein the frequency or mode of communicating to the user is changed when the investment in an individual one of the asset classes is in excess of the limit established by the user for the asset class. However, Ahuja does teach this method. (See Ahuja Paragraph 10 and 51 and 54)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 15:

Arena teaches a method of controlling the allocation of investment funds for a user, the steps of:

Establishing a plurality of asset classes for the user's investment and a limit for the user's investment in each of the asset classes. (See Arena figure 4, paragraph 71)

Periodically determining the user's investment in each of the asset classes. (See Arena Paragraph 76)

Arena does not teach providing a notification to the user, upon each periodic determination, whether or not the user's investment in each asset class exceeds the limit established by the user for the asset class. However, Ahuja does teach this method. (See Ahuja figs 1, 6(a), 6(b), 10, Paragraph 44)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 16:

Arena fails to further teach a method of:

Determining from the user, upon each notification to the user, whether the user wishes to change any of the asset classes or the investment limit in any of the asset classes. However, Ajuha does teach this method. (See Ajuha Paragraph 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 17:

Arena fails to further teach a method of:

Providing the notification to the user in a notification mode selected by the user. However, Ajuha does teach this method. (See Ajuha Paragraph 51 and 54)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 18:

Arena fails to further teach a method of:

Changing the periodicity of the notification when the notification indicates that the investment of the user in at least an individual one of the asset classes exceeds the

Art Unit: 3609

specified investment limit for the assets in the asset class. However, Ajuha does teach this method. (See Ajuha Paragraph 44, fig 10)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 19:

Arena fails to further teach a method of:

Changing the asset classes and the particular limits in each of the asset classes when the user provides a notification to this effect. However, Ajuha does teach this method. (See Ajuha Paragraph 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 20:

Arena fails to further teach a method of:

Receiving from the user, upon a notification to the user of an excess above a specified limit in an asset class, one of the following: (a) an acknowledgement of the notification without any change in any of the asset classes, (b) a change in the limits in at least one of the asset classes and (c) a change in the allocation of the investments among the asset classes. However, Ajuha does teach this method. (See Ajuha Paragraph 51)

Art Unit: 3609

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 21:

Arena teaches a method of:

Designating an individual one of a plurality of asset classification systems. (See Arena paragraph 37 lines 1-8)

Selecting, in the designated one of the asset classification systems, asset classes in which investments are to be provided. (See Arena paragraph 37 lines 1-8)

Arena fails to teach periodically indicating to the user the investments in each of the selected asset classes and the values of these investments. However, Ajuha does teach this method. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44 and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 22:

Arena fails to further teach a method of:

Notifying the user of the investments for the user in each asset class in a notification mode selected by the user. However, Ajuha does teach this method. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44, and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 23:

Arena fails to further teach a method of:

The notification mode includes regular mail, facsimile, e-mail and system alert messages. However, Ajuha does teach this method. (See Ajuha figs 1, 6(a), 6(b), 10, Paragraphs 44, and 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Regarding Claim 24:

Ahuja in view of Arena further teaches a method of:

Providing an opportunity to the user to change the asset classes in which investments are made for the user. However, Ajuha does teach this method.

(See Ajuha Paragraph 51)

Therefor it would be obvious for one skilled in the art to modify Arena in view of the notification system in Ahuja to allow for better, quicker investment decisions to be made in Arena's system allowing for more money to be made.

Art Unit: 3609

Conclusion

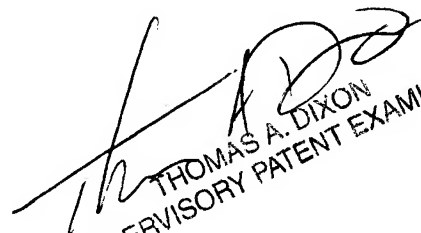
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Vezeris whose telephone number is 571-270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Vezeris
Patent Examiner
571-270-1580

August 22, 2007


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